

**UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT**

UNIVERSITY OF VERMONT
STUDENTS FOR JUSTICE IN
PALESTINE,

Plaintiff,

v.

THE UNIVERSITY OF VERMONT
AND STATE AGRICULTURAL
COLLEGE, et al.,

Defendants.

Case Number: 2:24-cv-978

Hon. William K. Sessions III

**MOTION OF FOUNDATION FOR
INDIVIDUAL RIGHTS AND
EXPRESSION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF IN
SUPPORT OF NEITHER PARTY**

The Foundation for Individual Rights and Expression (FIRE) respectfully requests leave to file the accompanying *amicus curiae* brief in support of neither party in the above-captioned case. FIRE's proposed brief is attached to this motion as Exhibit A.

FIRE states the following in support of this motion:

1. FIRE is a nonpartisan nonprofit organization dedicated to defending the rights of all Americans to free speech and free thought—the essential qualities of liberty. Because colleges and universities play an essential role in preserving free thought, FIRE places special emphasis on defending these rights on our nation's campuses. To best protect professors' academic freedom and prepare students for

success in our democracy, FIRE believes the law must remain unequivocally on the side of robust free speech rights on campus.

2. Since 1999, FIRE has defended First Amendment rights on university campuses through advocacy, litigation, and *amicus curiae* filings in cases, like this one, that implicate student and faculty rights. *See, e.g.*, Order Granting Prelim. Inj. Mot., *Novoa v. Diaz*, 641 F. Supp. 3d. 1218, (N.D. Fla. 2022), *appeal pending* No. 22-13994; Br. of *Amicus Curiae* Foundation for Individual Rights and Expression in Support of Plaintiff-Appellant, *Heim v. Daniel*, 81 F.4th 212 (2d Cir. 2023); Br. of Foundation for Individual Rights and Expression, American Civil Liberties Union, *et al.* as *Amici Curiae* Supporting Pl. *Univ. of Md. Students for Just. in Palestine v. Bd. of Regents of the Univ. Sys. of Md.*, (D. Md. Sept. 25, 2024) (No. 24-cv-2683-PJM) 2024 WL 4361863; Br. of Foundation for Individual Rights and Expression as *Amicus Curiae* in Support of Neither Party, *Kestenbaum v. President and Fellows of Harvard Coll.*, (D. Mass. July 16, 2024) (No. 1:24-cv-10092-RGS) 2024 WL 3658793.

3. As detailed in the accompanying brief, FIRE has a strong interest in the outcome of this case. FIRE has consistently defended the expressive rights of those students and faculty. In working with students and faculty at public colleges and universities across the country, FIRE has seen that speech often goes by the wayside when administrators are faced with controversial views that are alleged to cause emotional discomfort. Notably, in the year since the October 7, 2023 Hamas attacks on Israel, colleges and universities have censored students, student groups, and faculty across the nation and across the political spectrum when expressing views

related to the Israeli-Palestinian conflict. This case involves similar issues, thereby implicating the Supreme Court’s fifty years of First Amendment precedent protecting student expression on public campuses.

4. The accompanying *amicus curiae* brief contains less than 12 pages of argument and 13 pages total. FIRE requests permission to file it in the attached form.¹

5. The accompanying *amicus curiae* brief would be desirable and beneficial to this Court’s understanding of how the First Amendment protects student expression on public university campuses from viewpoint discrimination, regardless of whether it offends others on campus. Because these issues are pertinent to Plaintiff’s motion for preliminary injunction and Defendants’ opposition, and within *amicus* FIRE’s expertise, this brief will assist the Court in resolving these issues.

For these reasons, *amicus* FIRE respectfully requests that this Court grant its Motion for Leave to File *Amicus Curiae* Brief in Support of Neither Party.

Date: October 18, 2024

/s/ James M. Diaz
James M. Diaz
(Vermont Bar No. 5014)
FOUNDATION FOR INDIVIDUAL
RIGHTS AND EXPRESSION
510 Walnut St., Ste. 900
Philadelphia, PA 19106
(215) 717-3473
jay.diaz@thefire.org

¹ On October 2, 2024, *Amicus* FIRE emailed the parties seeking their consent to file its *amicus curiae* brief in support of neither party. Plaintiff consented and Defendants did not.

CERTIFICATE OF SERVICE

The undersigned certifies that on October 18, 2024, he caused all counsel of record to be served by the Court's ECF system at the email addresses on record for them with the Motion of Foundation for Individual Rights and Expression for Leave to File *Amicus Curiae* Brief in Support of Neither Party.

/s/ James M. Diaz

James M. Diaz

(Vermont Bar No. 5014)

FOUNDATION FOR INDIVIDUAL

RIGHTS AND EXPRESSION

510 Walnut St., Ste. 900

Philadelphia, PA 19106

(215) 717-3473

jay.diaz@thefire.org